

Roundtable Series on National Security Law

Hong Kong's National Security Law: Procedural and Sentencing Implications

25 February 2021 (Online ⇒ 7:00pm-8:30pm Hong Kong Time GMT+8)

The Law of the People's Republic of China on Safeguarding National Security in Hong Kong (NSL), enacted on 30 June 2020, possesses far-reaching implications for criminal law practice in Hong Kong. Among its novel features, rarely or never before seen within a criminal statute in Hong Kong's common law legal system, are offences of secession and subversion of state power, the creation of a special panel of judicial officers to hear security cases, the preclusion of judicial review over supervisory decisions, the power to dispense with jury trials, worldwide jurisdiction on the basis of the protection principle, mandatory minimum sentences of imprisonment and, most strikingly, the ability for the central government to assert jurisdiction and move a defendant to mainland China for trial.

Moving beyond the political controversies concerning the law's enactment, this seminar hopes to clarify the NSL's implications for criminal practice in the near future. Prosecutors, both from Hong Kong's Department of Justice as from the new Office for Safeguarding National Security will have to apply its new provisions as they pursue suspects in NSL cases; defence lawyers will have to navigate the new procedures brought by the law as they seek not guilty verdicts and mitigated punishments for their clients, and the judiciary will have to interpret broadly-worded offences and impose fair punishments. With that in mind, the seminar's panelists will provide a critical reflection on the following topics:

- Prosecutors' decisions on which courts to try NSL cases in;
- The power to exclude juries from Court of First Instance trials in NSL cases;
- The selection of magistrates and judges to hear NSL offences;
- The ongoing impact of the *Tong Ying-kit* decision on bail for NSL offences;
- The impact of mandatory minimum punishments on sentencing in NSL cases;
- Which types of cases might result in the assertion of jurisdiction by mainland courts, via the Office for Safeguarding National Security.

This roundtable is the third in a series of webinars that the Public Law and Human Rights Forum of City University of Hong Kong has organised to discuss various aspects of the NSL. The first two webinars were entitled 'Hong Kong's National Security Law: Implications for Companies and their Human Rights Responsibilities' (July 2020) and 'Hong Kong in the Post-National Security Law Era: Some Reflections from International Law and Relations Perspectives' (October 2020). The Public Law and Human Rights Forum looks forward to welcoming you to the webinar series.

Moderator: **Daniel Pascoe**, Associate Professor, School of Law, City University of Hong Kong

Panelists:

- **Vivienne Bath**, Professor of Chinese and International Business Law, The University of Sydney Law School
- **Michael C Davis**, Global Fellow, Wilson Center, Washington, DC
- **Denis Edwards**, Barrister and Mediator, Normanton Chambers, London
- **Paul Harris** SC, Barrister, Denis Chang's Chambers, and Chairman of the Hong Kong Bar Association
- **Simon Young**, Barrister, Parkside Chambers, and Professor of Law and Associate Dean (Research), Faculty of Law, The University of Hong Kong